

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ATRELLA R. REYNOLDS, )  
                            )  
Plaintiff,              )  
                            )  
vs.                      ) CIVIL NO. 08-415-GPM  
                            )  
DIVISION OF AERONAUTICS, A Unit of )  
the Illinois Department of Transportation, )  
SUSAN SHEA, TERRISA LASHMETT, )  
JAMES F. DEVEREUX, and VICKIE )  
STOUT,                    )  
                            )  
Defendants.             )

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

Plaintiff, proceeding *pro se*, has filed a second motion for default judgment (*see* Doc. 17) and a “motion to order certain allegations be stipulated as facts” (*see* Doc. 19). As this Court stated in its Order dated July 16, 2008 (*see* Doc. 12), Defendants were granted an extension of time, up to and including August 8, 2008, to respond to the complaint. On August 6, 2008, before their time elapsed, Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (*see* Docs. 14, 15). A motion to dismiss is a responsive pleading which satisfies Defendants’ obligation to plead or otherwise defend, making default improper. *See* FED. R. CIV. P. 55(a). Accordingly, the amended motion for default judgment is **DENIED**.

Likewise, the “motion to order certain allegations be stipulated as facts” (Doc. 19) is **DENIED**. Any stipulations in this case must be agreed to by the parties. If Plaintiff seeks to allege additional facts in support of her claims, she must seek leave to file an amended complaint.

Finally, the Court notes, as mentioned above, that Defendants filed a motion to dismiss on August 6, 2008. Plaintiff is hereby put on notice, that, pursuant to Local Rule, her written response to the motion to dismiss must be filed on or before **September 10, 2008**. “Failure to timely file an answering brief to a motion may, in the court’s discretion, be considered an admission of the merits of the motion.” SDIL-LR 7.1 (c).

**IT IS SO ORDERED.**

DATED: 8/26/08

s/ *G. Patrick Murphy*  
G. Patrick Murphy  
United States District Judge